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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/745,569	12/23/2000	Dann E. Kroeger	ATUBP006/44556/03323	2149

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Hovey, Williams, Timmons & Collins
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Kansas City, MO 64108

EXAMINER

NGUYEN, NGA B

ART UNIT	PAPER NUMBER
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3628

DATE MAILED: 11/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/745,569

Applicant(s)

KROEGER, DANN E.

Examiner

Nga B. Nguyen

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MW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

1. This Office Action is the answer to the communication filed on December 23, 2000, which paper has been placed of record in the file.
2. Claims 1-17 are pending in this application.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:


The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 6 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. "The network" and "the link" recited in claims 6 (depends on claim 1) and 14 (depends on claims 9-11) are lack of antecedent basis because claims 1 and 9-11 do not recite "a network" and "a link".

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 1-16 are rejected under 35 U.S.C 101 because the claimed invention is directed to non-statutory subject matter, particularly, an abstract idea.
- 

The claims, as presently claimed and best understood were reconsidered in light of the "Examination Guidelines for Computer-Related Inventions" and were found to be non-statutory. Discussion of the analysis of the claims under the guidelines follows.

Claims 1-16 merely manipulate an abstract idea that is not within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter.

As to claims 1-8, the claimed invention is not implemented on a specific apparatus; therefore, the invention is not directed to the technological arts. To be statutory, the utility of an invention must be within the technological arts. The definition of "technology" is the "application of science and engineering to the development of machines and procedures in order to enhance or improve human conditions, or at least to improve human efficiency in some respect." (Computer Dictionary 384 (Microsoft Press, 2d ed. 1994)). When one looks to the present specification to determine what the applicant has invented, the invention appears to be a series of steps performed on a computer. It is clear that claims 1-8 are intended to be directed to the abstract method apart from the apparatus for performing the method. Therefore, claims 1-8 are non-statutory, because they are directed solely to an abstract idea without practical application in the technological arts.

As to claims 9-16, the claimed invention recites a computer program *per se* (functional descriptive material *per se*), because the computer program is not recorded on a computer-readable medium, therefore, claims 9-16 are non-statutory. When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir.1994) (claim to data structure stored on a computer readable medium that increases computer efficiency held statutory) and *Warmerdam*, 33 F.3d at 1360-61, 31 USPQ2d at 1759 (claim to computer having a specific data structure stored in memory held statutory product-by-process claim) with *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure *per se* held nonstatutory).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wright et al (hereinafter Wright), U.S. Patent No. 6,581,040, in view of Alaia et al (hereinafter Alaia), U.S. Patent No. 6,216,114.

Regarding to claim 1, Wright discloses a method for providing a bid manger, comprising the steps of:

managing a plurality of projects each including a plurality of tasks (column 1, lines 50-60, each project includes a plurality of divisions (equivalent to tasks));

displaying the tasks associated with each project to solicit bids (column 5, lines 10-15; column 6, lines 30-37; displaying the portions associated with each project for bidding);

receiving bidder identifiers and bid amounts for each of the tasks (column 4, lines 48-60 and column 9, lines 25-58; receiving the bids from the resource providers (bidders) an bid amounts for each of the portion of the project); and

displaying a list of tasks for each project with the associated bidder identifier (column 6, lines 38-48; displaying a list of bidders for each portion of a project).

Wright does not teach displaying the bid amount positioned adjacent each corresponding task. However, Alaia teaches displaying the bid amount positioned adjacent each corresponding lot (figure 6A-6D; column 5, lines 30-45). Therefore, it would have been obvious to incorporate the feature above with Wright's for the purpose of providing the potential bidders more easily to monitor the current bid amount of each task in order to make a decision for placing a bid.

Regarding to claim 2, Wright does not disclose calculating a total bid amount for each of the bidder identifiers, wherein the total bid amount is calculated separately for each project. However, Alaia discloses calculating a total bid amount for each of the bidder identifiers, wherein the total bid amount is calculated separately for each lot

(figure 8; column 24, tables 10-11). Therefore, it would have been obvious to incorporate the feature above with Wright's for the purpose of providing the potential bidders more easily to track their current bid amounts.

Regarding to claim 3, Wright discloses allowing the acceptance of the bid amounts separately for each task on the list (column 9, lines 45-53; the acceptance of the bid amounts separately for each of division of the project).

Regarding to claims 4-5, Wright and Alaia do not teach the acceptance is transmitted to a bidder utilizing an electronic mail message based on the bidder identifier and a link is include in the electronic mail message for allowing the bidder to access a copy of the acceptance in the database utilizing a network. However, such feature is well known in the art of participating in an auction over the Internet. For example, many different auction websites (e.g. eBay auction) usually send the bid confirmation to the bidder via the electronic mail after the bidder submitted bid, the email message includes a hyperlink allows the bidder to access a copy of the confirmation. Therefore, it would have been obvious to incorporate the feature above with Wright's modified by Alaia's above for the purpose of providing the convenient mechanics to keep the potential bidders about their bidding statuses.

Regarding to claim 6, Wright discloses the network is the Internet, and the link is a hyperlink (column 10, lines 13-20).

Regarding to claims 7-8, Wright discloses the tasks are managed by a project manger (column 1, lines 50-60) and the project manger is capable of: providing a plurality of templates for initiating a project (column 5, lines 45-55); allowing a user to

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populate the template with task records each having at least one associated task (column 8, lines 30-50); and allowing the user to select the tasks to be displayed for bidding purposes (column 9, lines 25-38).

Claims 9-16 are written in computer program that parallel the limitations found in claims 1-8 above, therefore, are rejected by the same rationale.

Claim 17 is written in means that parallel the limitations found in claim 1 above, therefore, is rejected by the same rationale.

Conclusion

9. Claims 1-17 are rejected.

10. The prior arts made of record and not relied upon is considered pertinent to applicant's disclosure:

Fisher et al. (US 5,835,896) discloses a system and method for conducting the auction over the Internet.

Godin et al. (US 5,890,138) discloses an auction system allows users to participate over the Internet.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Nga B. Nguyen whose telephone number is (703) 306-2901. The examiner can normally be reached on Monday-Thursday from 9:00AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on (703) 308-0505.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 306-1113.

12. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

C/o Technology Center 3600

Washington, DC 20231

Or faxed to:

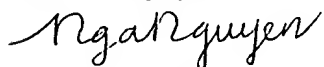
(703) 872-9326 (for formal communication intended for entry),

or

(703) 308-3691 (for informal or draft communication, please label "PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, Seventh Floor (Receptionist).

Nga B. Nguyen



March 4, 2004